

5.4

Civil Rights and Equal Protection for Race, Gender, and Disability

Standard 5.4: Civil Rights and Equal Protection for Race, Gender, and Disability

Explain the historical context and significance of laws passed by Congress that have expanded the civil rights and equal protection for race, gender and disability. (Massachusetts Curriculum Framework for History and Social Studies) [8.T5.4]



[Reconstruction of Two Segregated Classrooms in 1953/Birmingham Civil Rights Museum](#)

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FOCUS QUESTION: How Have Laws Passed by Congress Expanded Civil Rights and Equal Protections for Race, Gender, and Disability?

Throughout United States history, women, people of color, and individuals with disabilities **have struggled to gain civil rights and receive equal protection under the law**. Actions by Congress to address discrimination and injustice have only occasionally resulted in sweeping legislative action, examples of which are explored in this standard in the areas of civil rights, voting rights, gender rights, and disability rights.

Modules for this Standard Include:

1. [INVESTIGATE: Race -The 1964 Civil Rights Act and the Voting Rights Act of 1965](#)
2. [INVESTIGATE: Gender - Title IX of the Education Amendments of 1970](#)
 - [MEDIA LITERACY CONNECTIONS: The Equality Act on Twitter](#)
 - [ENGAGE: When can girls and boys compete together in athletic events?](#)
3. [INVESTIGATE: Disability - The Americans with Disabilities Act of 1990](#)
 - [UNCOVER: Helen Keller, author, and political activist](#)

1. INVESTIGATE: Race - The 1964 Civil Rights Law and Voting Rights Act of 1965



[President Lyndon B. Johnson signs the Voting Rights Act of 1965 while Reverend Martin Luther King Jr. and others look on.](#)

Public Domain

The **1964 Civil Rights Law** and the **Voting Rights Act of 1965** are two of the most important pieces of civil rights legislation in United States History. Both have their origins in the passage of the 13th, 14th and 15th Amendments following the Civil War.

- The [13th Amendment](#) (1865) outlawed slavery in the United States (except as punishment for crimes).
- The [14th Amendment](#) (1868) guaranteed citizenship and due process and equal protection under the law to anyone born or naturalized in the United States (except certain indigenous Americans).
- The [15th Amendment](#) (1870) guaranteed that the right to vote cannot be denied by race and gave Congress the power to pass laws to ensure that right.

The [Civil Rights Act of 1866](#) was the first federal law to declare equal rights under the law for all people living within the jurisdiction of the United States. In 1870, the **Department of Justice** (DOJ) was created to enforce protect Black voting rights from intimidation and violence by southern groups, including the Ku Klux Klan. As Attorney-General, Amos T. Ackerman, a former officer in the Confederate Army, was in charge of the new department and he aggressively pursued prosecutions against the Klan and others, obtaining hundreds of convictions in South Carolina and throughout the South ([Smithsonian Magazine](#), July 2020). The [Ku Klan Klan Act](#) was passed in 1871 to give the federal government more power to combat violence against Blacks, but Ackerman was removed from office in December of that year, a crucial development in the collapse of federal efforts to maintain Reconstruction rights for Blacks. Reconstruction itself ended with the election of 1876.

Since then, there have been periodic efforts by Congress to ensure civil rights for Americans as shown in the following timeline: [Constitutional Amendments and Major Civil Rights Acts of Congress, 1865-2006](#).



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The Civil Rights Act of 1964

The [1964 Civil Rights Act](#) outlawed discrimination on the basis of race, color, religion, sex, or national origin, required equal access to public places and employment, and enforced desegregation of schools and the right to vote.

Learn more about the [Civil Rights Act of 1964](#) from the Wisconsin Historical Society.

In 2020, in the [Bostock v. Clayton County, Georgia](#) case, the Supreme Court held that the Title VII of the 1964 Civil Rights Act banned employment discrimination based on sexual orientation or gender identity. The Title VII law prohibits employers from discriminating based on "race, color, religion, sex, or national origin."

The case involved two gay men and one transgender woman who were fired by their employers based on their sexual and gender expression. Writing for the 6 to 3 majority, Justice Neil Gorsuch said, "when an employer fires an employee for being homosexual or transgender, it necessarily discriminates against the individual in part because of sex" ([Syllabus, p. 3](#)).

The decision was considered a landmark ruling for LGBTQ rights in part because it applies to every employer in the country with 15 or more employees. In 2017, 77% of the nation's workplaces had 15 or more employees ([The Historic Bostock Opinion and LGBTQ Rights in School](#), Phi Delta Kappan, September 21, 2020).

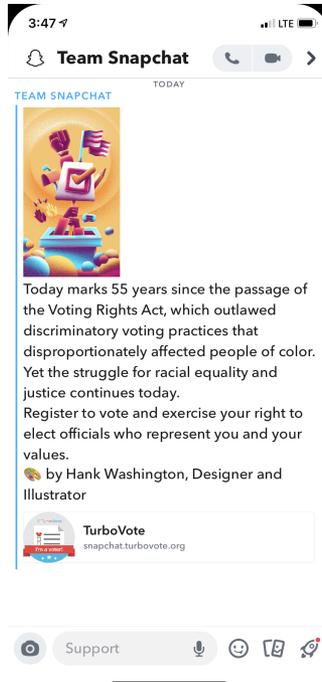


[School Integration, Barnard School, Washington, D.C., 1955](#) Public Domain

The Voting Rights Act of 1965

The [1965 Voting Rights Act](#) (VRA) was designed to “ensure state and local governments do not pass laws or policies that deny American citizens the equal right to vote based on race.” As explained by [Amy Howe](#) (2013), the law required “all state and local governments with a history of voting discrimination to get approval from the federal government before making changes to their voting procedures, no matter how small.”

You can read an longer overview of the [Voting Rights Act from the Brennan Center for Justice](#).



Screenshot of Snapchat. Retrieved August 6, 2020

But in a 2013 case, [Shelby County v. Holder](#), the Supreme Court

rejected the VRA's "coverage formula" (Section 4) for determining when a state or locality was failing to comply with the law. In 2013, the year of the Court's decision, Alabama, Alaska, Arizona, Georgia, Louisiana, Mississippi, South Carolina, Texas, and Virginia as well as districts in California, Florida, Michigan, New York, North Carolina and South Dakota were in violation of the Voting Rights Act ([Why Is Section 4 of the Voting Rights Act Such a Big Part of the Fight Over Voting Rights](#), VOX, February 14, 2016).

The result is that the Voting Rights Act remains substantially weakened till Congress sets a new standard for determining discrimination, legislation that the Republican-controlled Senate has been unwilling to consider. The most recent Congressional effort to update the 1965 law is the **John R. Lewis Voting Rights Advancement Act**, [summarized here by a press release](#) from the office of Vermont Senator Patrick Leahy. The VRAA was passed by the House of Representatives in December, 2019.

Suggested Learning Activities

- **Analyze a Primary Source**
 - [Congress Protects the Right to Vote](#), National Archives
- **Research Legislation for Racial Justice**
 - Identify 3-5 pieces of legislation that have advanced racial justice.
 - Create a mosaic with symbols, images, and colors to explain how these pieces of legislation advanced the civil rights of black and brown people in the United States.
- **Engage in Civic Action: Propose a 21st Century Civil Rights or Voting Rights Law**
 - [How a Bill Becomes Law](#)
 - [How to Write a Bill](#)
 - [Voting Rights, Then and Now](#)

Online Resources for the Voting Rights Act

- [A Long Struggle for Freedom](#), Library of Congress
- [The Civil War Curriculum: Post-1865: Effects of the War](#), Civil War Trust
- [Full Text of the 14th Amendment](#)
- [Shelby County v. Holder](#) (2014)
- [Shelby County v. Holder and the Memory of Civil Rights Progress](#), National Constitution Center (November 25, 2013)
- [13 Things You Need to Know About the Fight Over Voting Rights](#)

2. INVESTIGATE: Gender - Title IX of the Education Amendments of 1972

In 2019, 12-year-old Maddy Freking became only the 19th girl to play baseball with boys in the 72 year history of the Little League World Series; the first girl played in 1984 (learn more: [A brief history of the 19 girls who have played in the Little League World Series](#)). Maddy's opportunity to play has its roots in **Title IX**, a landmark civil rights law prohibiting discrimination based on gender at educational institutions that receive federal funding.

Title IX declared: "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance" (as cited in [Harvard Title IX, 2020](#), para. 2)

Watch [What is Title IX](#), a video from CNN, to learn more about this landmark law.

Most of us think in terms of how Title IX has transformed athletics and sports for girls and women. Before Title IX, only one in 27 girls participated in high school sports; by 2019, the number was two in five.



[College Women's Lacrosse Players, 2017](#) from [Flickr](#) licensed by [CC.BY.2.0](#)

But **sports was not the only area of gender relationships impacted by this law**. Before Title IX, only 7% of law degrees and 9% of medical degrees were earned by women. Currently women earn 47% of law degrees and 48% of medical degrees. Furthermore, by prohibiting sexual discrimination, Title IX made **verbal or written harassment, sexual assault, stalking, and domestic violence crimes**, greatly enhancing safety for women.

You can follow the latest in women's sports from the [On Her Turf](#) blog from NBC Sports.

Transgender Protections

Title IX is also at the center of current debates over the rights of transgender individuals, including students in schools. **Transgender** describes people whose gender identity or gender expression is different from the sex they were assigned at birth ([Transgender FAQ](#), GLAAD).

In June 2021, the U.S. Department of Education reversed a position taken by the previous Trump Administration (which had rescinded policies from the Obama Administration) and declared that Title IX prohibits discrimination on the basis of sexual orientation or gender identity. The Department followed the reasoning established by the 2020 *Bostock V. Clayton County* employment discrimination case that discrimination based on sexual orientation and gender identity is a form of sex discrimination and therefore prohibited. President Biden's executive order said "children should be able to learn without worrying whether they will be denied access to the restroom, the locker room, or school sports" ([Executive Order 13988](#): Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation, January 20, 2021).

Sports participation for transgender youth has become one of the most polarizing Title IX issues. In 2020 alone, 20 states passed laws banning transgender athletes from participating in school sports even though the National Collegiate Athletic Association (NCAA), International Olympic Committee (IOC), and numerous professional and amateur leagues (including USA Gymnastics, U.S. Soccer, and the National Women's Hockey League) have allowed transgender athletes to participate "in accordance with their gender identify as early as 2004" ([Fair Play](#), Center for American Progress, February 8, 2021, para. 2).

Suggested Learning Activities

- **Evaluate Representation of Women in Art**
 - Use art resources from [Can Girls Do That?](#) Wadsworth Atheneum Museum of Art.
 - Ask students to make their own portraits that prove that stereotypes are not always accurate.
- **Research Legislation for Gender Equity**
 - Identify 3-5 pieces of legislation that have advanced gender equity.
 - Create a mosaic with symbols, images, and colors to explain how these pieces of legislation advanced the gender rights of all Americans.

Online Resources for Title IX and Combating Gender Stereotypes

- [The Impact of Title IX](#) Lesson Plan
- [Striving for Gender Equity in Athletics](#) Learning Activities, Gilder Lehrman Institute of American History
- [Title IX at 40](#), *Teaching Tolerance Magazine*
- [Gender Equality in Athletics](#)
- [Title IX Frequently Asked Questions](#), NCAA
- [Title IX-Gender Equity in Education](#), American Civil Liberties Union
- [Why Transgender Girls Are Suddenly the G.O.P.'s Culture-War Focus](#), *The New York Times*
- [Figure Skating Has Always Blurred the Lines of Gender Segregation](#), FiveThirtyEight (February 11, 2022)

Media Literacy Connections: The Equality Act on Twitter

At the end of February, 2021, the U.S. House of Representatives passed the [Equality Act](#), a bill designed to amend the [1964 Civil Rights Act](#) by banning discrimination based on sexual orientation and gender identity. The 1964 legislation banned discrimination based on “sex.”

The Equality Act expands that protection against discrimination to explicitly include lesbian, gay, and transgender Americans. The Act was one of the policies that President Joe Biden wanted to have passed during his first 100 Days in office.

Support and opposition for the bill is sharply divided along partisan lines - Democrats support and Republicans oppose. Both sides cite the importance of individual freedoms to support their views.

Court decisions are divided as to what is **discriminatory conduct**. In [Bostock v. Clayton County](#), the Supreme Court ruled that an employer cannot fire an employee for participating in a gay recreational softball league. But, the Court also ruled in [Masterpiece Cakeshop, LTD v. Colorado Civil Rights Commission](#) that a baker can refuse to make a wedding cake for a same-sex couple.

In this activity, you will investigate how members of Congress took to Twitter to discuss, promote, or oppose the Equality Act and then consider how you might have done it differently:

- [Activity: Compare and Contrast Politicians' Use of Twitter Regarding the Equality Act](#)



Watch on YouTube <https://edtechbooks.org/-Uqrj>

2.1. ENGAGE: When Can Girls and Boys Compete Together in Athletic Events?

While girls in this country have always played sports and games for fun, formal athletic participation and competition for women did not begin until the 1880s with the forming of separate clubs where females could play tennis, croquet, bowling and archery—although often under different rules than for men.

- The first intercollegiate basketball game between women teams was played in 1896 ([Bell, 2008](#)).
- The first women’s amateur golf tournament was held in 1895. Women’s hockey teams started in the 1910s and 1920s,

particularly in Canada and the Pacific Northwest.

- Women's hockey was added as an Olympic event in 1998.
- The first professional sports league for women, the [All-American Girls Baseball League](#) (showcased in the movie [A League of Their Own](#)) was started in 1943, during World War II.



[Babe Didrikson Zaharias, 1948](#). Public Domain

The nation's most prominent mid-20th century woman athlete was **Babe Didrikson Zaharias**. A multi-sport star in track and field events (shot put, hurdles, and high jump), baseball, and golf, she set numerous records in different sports and could outperform males in each ([About "Babe" Didrikson Zaharias](#)).

Didrikson qualified for all five individual women's track and field events in the 1932 Olympics, but was allowed to compete in only three

of them. The Ladies Professional Golf Association (LPGA) was established in 1950; Babe Zaharias as one of the original 13 founders. For more on her life and times, visit the *resourcesforhistoryteachers* wiki page, [Babe Didrikson Zaharias, Woman Athlete and Equality Pioneer](#).

Today, more than two in every five girls participate in high school sports, spurred on in part by the achievements of Serena and Venus Williams, Simone Biles, Mikaela Shiffrin, Alex Morgan, Lindsey Vonn, Michelle Wie, Danica Patrick and many others. Still participation in high school sports by boys (4,565,580) exceeds girls (3,415,306) by more than a million participants ([National Federation of State High School Associations, 2018](#)).

The increasing participating of girls in school sports has raised complex Title IX and 14th Amendment questions of sex, gender, and identity in the following areas.

Mixed Gender Sports

Should girls and boys be allowed to compete against one another in the same athletic activities? Adult women and men compete against one another in many sports today including Equestrian events, horse racing, ultimate frisbee, car racing, sailing, surfing, and mixed team events in tennis, golf, and badminton. The Tokyo Olympics, held in 2021, featured 7 new mixed-gender events including relays in track and swimming and mixed pistol and rifle competitions, as well as mixed judo and table tennis. In the triathlon, each individual member of a four-person team (two women and two men) swim 300 meters, bike 6.8 kilometers, and run 2 kilometers. In table tennis, like mixed doubles tennis, two-person female and male teams compete together against a team of mixed-gender opponents.

The [Women's Sports Foundation](#) (2019) contends that co-educational mixed gender sport competition should be encouraged in middle and high schools where rules "maximize fair competition between the

sexes" (p. 2). The Foundation also believes schools must allow girls to try out for boys' teams in contact or non-contact sports, which is the law in some but not all states. There are educational and parent organizations that strongly disagree with this position.

Gender Identity and Transgender Athletes

Should students be banned from participating in athletics based on their gender identity? In May 2020, the federal Education Department's Office of Civil Rights found that a state of Connecticut policy allowing transgender students to compete on female track teams "denied female student athletes athletic benefits and opportunities" and threatened to withhold funding to the state's Interscholastic Athletic Conference (Levenson & Vigdor, 2020, p. 29). Transgender rights groups strongly opposed the ruling, arguing that students who identify as female are female and must be allowed to participate under Title IX guarantees. The case has national implications. In 2020 and 2021, multiple states including Alabama, Arkansas, Florida, Georgia, and Idaho banned transgender girls from participating in women's sports. Idaho also legalized sex testing of athletes before competing.

What Do Students Want?

Adopting the principle that students should have a meaningful voice in school reform, one district in New Mexico asked kids for their recommendations for change and improvement (Baca & Valladares, [National Education Policy Center](#), January 2022).

Among the students' recommendations was "expand formal and informal sports activities," (p. 9) including pickup basketball, volleyball, soccer, roller skating, and hiking. The students emphasized the importance of activities that were non-competitive and built friends and community. In addition, they urged administrators and teachers to "increase the number of and access to activities that connect to students' interests and identities" (p. 10). They further

suggested students be released from class to go hiking with local scientists just like student athletes playing competitive sports get released to attend games.

How would students in your school improve athletic activities and opportunities for everyone?

Suggested Learning Activities

- **Propose Changes at Your School**
 - How would you provide girls with more opportunities to play sports in school?
- **State Your View: Should girls, boys, and/or transgender students compete against one another in school athletic events?**
 - For background, review [Issues Related to Girls and Boys Competing with and Against Each Other in Sports and Physical Activity Settings](#) by the Women's Sports Foundation.

Online Resources for Mixed Gender Sports and Games

- [Games for Girls](#)
- Learning Plan: [Defying Gender Stereotypes](#), PBS Newshour
- [National Girls & Women in Sports Day](#) (NGWSD). Began in 1986 and celebrated on February 2

3. INVESTIGATE: Disability - The Americans with Disability Act of 1990

The [Americans with Disabilities Act](#) (ADA) is a “civil rights law that prohibits discrimination against individuals with disabilities in all areas of public life, including jobs, schools, transportation, and all

public and private places that are open to the general public" ([What is the Americans with Disabilities Act?, 2020, para. 1](#)). The first disability law enacted in the United States was Section 504 of the 1973 Rehabilitation Act. It prohibited discrimination against people with disabilities in programs that receive federal financial assistance, and set the stage for enactment of the Americans with Disabilities Act.



[Pelangi Tower - Wheelchair Ramp](#) from [Chongjian](#) licenced under [CC.BY-SA.4.0](#)

Signed into law by President George H. W. Bush in July 1990, the ADA is a milestone achievement in the civil rights struggle by individuals with disabilities and exceptionalities. **ADA changed the everyday lives of millions of Americans.** Students with disabilities could not be denied equal schooling. Individuals with disabilities no longer had to abandon their wheelchairs to ride a train or bus; a restaurant or grocery store could no longer refuse to serve a disabled person; no

one could not be blocked from employment because of their disability or paid less money for the same work; homosexuals could not longer be labeled disabled ([Lombard, 2015](#)).

Still, despite the ADA law, there is much progress that must be made for disability rights and justice. Only 19% of adults with disabilities held jobs in 2019, and that was before the COVID-19 pandemic created widespread unemployment throughout the country. Additionally, people with disabilities are more likely to be incarcerated or be victims of police violence and are less likely to vote due to physical and logistical barriers ([Leonhardt, 2020](#)).

Here is [the entire text of the law](#), as amended. Other important legislation include the **[Individuals with Disabilities Education Act \(IDEA\) in 1990](#)** and the **[Americans with Disabilities Amendments Act in 2008](#)**. There are more resources at the [Disability Rights and Justice Movement](#) and the [Disability History Museum](#).

Suggested Learning Activity

- **Document, Research, and Propose Action**
 - Review the Global Disability Rights Now document: [Improving Accessibility of Schools](#).
 - Photograph or sketch a map showcasing all the ways the physical and instructional learning environments of your school have been changed to accommodate the needs of disabled students and adults.
- **Discuss and State Your View:** What still needs to be changed at your school to ensure full and equal participation for all?
 - Write a proposal or create a presentation to propose changes to your school administrators about increasing the accessibility of your school building and learning environment.
- **Research Legislation for Rights of People with Disabilities**
 - Identify 3-5 pieces of legislation that addressed the rights people with disabilities.
 - Create a mosaic with symbols, images and colors to explain how these pieces of legislation advanced disability rights in the United States.

Online Resources for the Americans with Disability Act and Disability History

- Lesson Plan: [Equal Treatment, Equal Access: Raising Awareness About People with Disabilities and Their Struggle for Equal Rights](#), Anti-Defamation League
- Learning Activities: [Classroom Activities Examining the Civil Rights Act and ADA](#), Teaching Tolerance
- Lesson Plan: [Document Debate: A look at the Americans with](#)

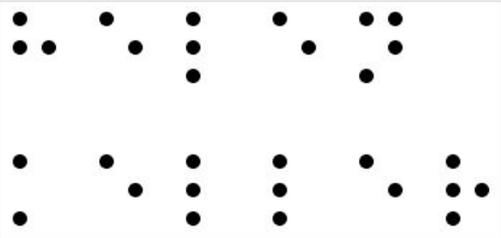
[Disabilities Act](#), Robert and Elizabeth Dole Archive and Special Collections, University of Kansas

- [Dorothea Dix, Mental Health Reformer](#), in the early 19th century, Dorothea Dix was a pioneering advocate for changing public attitudes and medical treatment for people with disabilities.
- resourcesforhistoryteachers wiki page: [Disability Rights and Justice Movement](#)

3.1. UNCOVER: Helen Keller, Author and Political Activist

Deaf, blind, and unable to speak after an illness as an infant, [Helen Keller](#) devoted her life to supporting progressive causes, fighting for women's rights, and opposing discrimination against people with disabilities.

Helen Keller, 1912 from Library of Congress



Helen Keller spelled in Braille

[Helen Keller 1880-1963](#) from [United States Library of Congress's Prints and Photographs Division](#), Public Domain
[Helen Keller in Braille](#) from [Trockennasenaaffe](#), Public Domain

Helen Keller advocated for **women's suffrage, birth control, and pacifism**. She became a socialist and a member of the [Industrial Workers of the World](#) (IWW). To learn more about her political views, read [How I Became a Socialist](#) (1912).

A statue of her, based on a scene from the movie [A Miracle Worker](#), was added to the National Statuary Hall in Washington, D.C. in 2009. For more information, explore the *resourcesforhistoryteachers* wiki page [Helen Keller, Author and Political Activist](#) and the [Helen Keller Archive](#) from the American Association for the Blind.

Suggested Learning Activities

- **Read and Report Out**

- Explore the [Helen Keller Political Activities section](#) of her Wikipedia page
- List four causes for social justice Helen Keller supported during her lifetime.
- Have you been taught about Keller's life-long political activism in school?
- If not, write a proposal to a teacher or school administrator advocating for the inclusion of Keller's political activism in school curriculum.

- **Analyze Primary Sources**

- Explore [Helen Keller's FBI Files](#)
- Why do you think Helen Keller was investigated by the FBI for her political views?
- Why were opposition to war, support for socialism, and commitment to revolutionary change such controversial topics in American society, then and now?

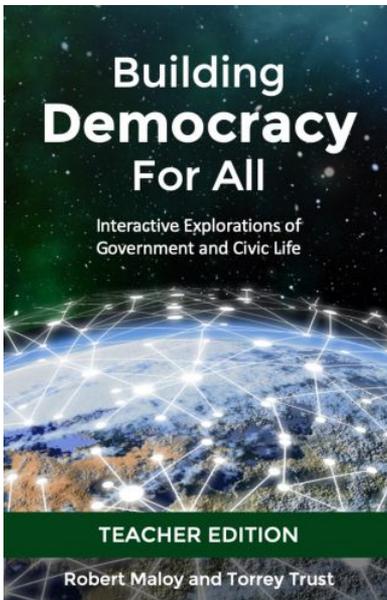
- **Learn Online**

- Explore [SignASL.org](#), an online American Sign Language (ASL) dictionary
- How is ASL similar to and different from spoken English?
- Review [Why Sign-Language Gloves Don't Help Deaf People](#)
 - Discuss: Why might deaf people not be in favor of sign-language gloves?

Standard 5.4 Conclusion

The modules for this standard examined late 20th century laws passed by Congress that expanded civil rights for people of color, women, and individuals with disabilities. **INVESTIGATE** reviewed the 1964 Civil

Rights Act and the 1965 Voting Rights Act; Title IX of the Education Amendments of 1970; and the Americans with Disabilities Act of 1970. **UNCOVER** explored the career and political activism of Helen Keller. **ENGAGE** asked when can girls and boys compete together in athletic events.



Maloy, R. W. & Trust, T. (2020). *Building Democracy for All*. EdTech Books. <https://edtechbooks.org/democracy>